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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,372	10/20/2003	Douglas Sean Morris	47869/265209	2852

826 7590 10/11/2005

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CHARLOTTE, NC 28280-4000

EXAMINER
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ROYAL, PAUL

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/689,372		MORRIS, DOUGLAS SEAN	
	<b>Examiner</b>		<b>Art Unit</b>	
	Paul Royal		3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37, 39, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37, 39, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/20/03</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. As identified by applicant, in the Office Action dated 12/20/04, the Examiner signed but did not initial the references of the IDS applicant submitted on 10/20/03. The IDS in the instant Office Action has been signed and each reference initialed by the Examiner.

### ***Response to Amendment***

2. The amendments filed on 06/20/05 have been entered.

### ***Response to Arguments***

3. Applicant's arguments, in light of the amended claims, with respect to the rejection(s) of claim(s) 1-7, 9-11, and 13-22, 24-25, 29-30, 34 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Cornou in view of Slåttebrekk as applied below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-37, 39, 41-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "a wall" is unclear because applicant has already presented a "peripheral wall" and the word "wall" within independent the limitation "a wall" is part of the "peripheral wall" limitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, and 13-22-25, 29-30, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornou (US 4,362,244) in view of Slåttebrekk (US 6,058,638). Cornou teaches a nestable storage container structured to display information provided on a display token, comprising:

a bottom wall (Btmwall, see Examiner's annotated Figure 3);

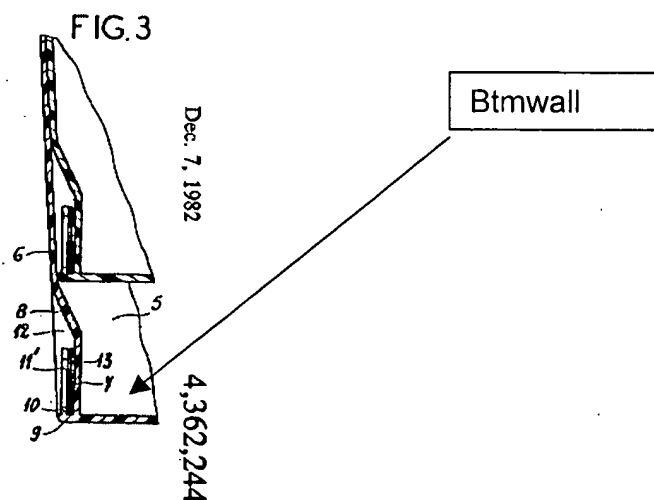
an angled peripheral wall (24,25,26,6) having inner and outer surfaces, the peripheral wall having a top end and a bottom end that adjoins the bottom wall, the peripheral wall and bottom wall defining a storage area for food processing usage, and wherein the peripheral wall extends from the bottom wall at a predetermined angle such that the container is stackable (see column 3, lines 18-29);

wherein the peripheral wall (24,25,26,6) includes a lip (1,2) extending therefrom, the lip extending a distance greater than the wall of the display window from the outer surface of the peripheral wall;

the peripheral wall (24,25,26,6) includes a flange portion (9) extending outwardly, the display window extending from the flange portion of the peripheral wall;

a display window (10,9, 8,7,7a) extending from the outer surface of the peripheral wall, the display window (10,9, 8,7,7a) having a wall (10) spaced away from the outer surface of the peripheral wall to define a partially enclosed gap (31) there-between structured to receive a display token; and

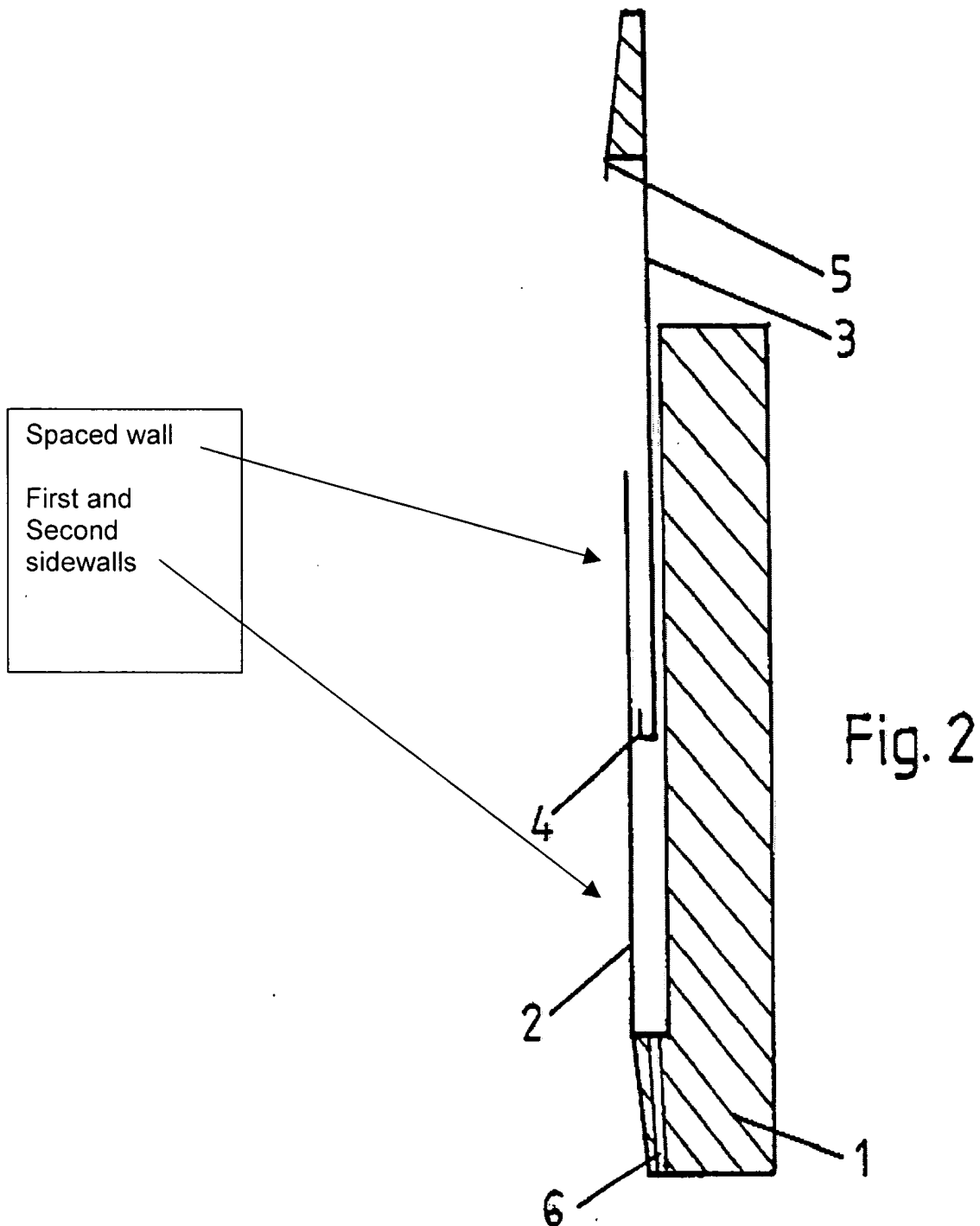
at least one reusable display token (13) adapted for removable insertion into the gap (31) defined by the display window and the peripheral wall, the at least one display token being visible through at least one of the wall of the display window and the peripheral wall.



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Cornou does not teach the display window having first and second sidewalls as recited in the amended claims.

Slåttebrekk teaches an information slip holder which includes first and second sidewalls and a wall spaced (see Examiner's annotated Figure 2) away from the outer surface of a peripheral wall and which includes at least one drainage channel (6) adapted for allowing liquid to pass therethrough to provide an information holder which guards against penetration of water, and at the same time, offers an easy way to change information slips.



For claim 5, note Cornou teaches the container is molded from synthetic resin which is understood to include, inter alia, polyethylene.

For claims 6 and 7, note the elements which form the display window also form an opening which is at least partially transparent.

For claims 9 and 10, note the display window formed by elements 10,9, 8,7,7a are integrally attached to the peripheral wall.

For claim 11, note the display window wall defines an angle between the wall of the display window and the peripheral wall, see column 3, lines 64-68.

Further Cornou and Slåttebrekk teach a storage container having the claimed limitations except at least one additional display windows extending from the peripheral wall and specific display indicia.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the storage container of Cornou and Slåttebrekk to include at least one additional display windows extending from the peripheral wall, because mere duplication of the essential working parts of a device involves only routine skill in the art.

For claims 26-28, 31-33, 37, 41 and 42 the indicia of the tokens which is not functionally related to the container does not distinguish the invention from prior art in terms of patentability and although the indicia must be considered, it is not entitled to patentable weight, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to whatever indicia is desired by the user since it would only depend on the intended use of the container and the desired information to be displayed.

Further, for claims 36-37, 41-42, the recited method of storing goods is understood to be a well known method of using the nestable container with indicia



holder of Cornou because the container is disclosed as useable in a variety of purposes, such as agriculture, food processing, commerce and industry which are understood to utilize the recited steps.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 571-272-6652. The examiner can normally be reached on 8:30-4:30.

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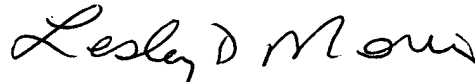
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



P. Royal  
10/4/2005

Paul Royal  
Examiner  
Art Unit 3611



**LESLEY D. MORRIS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**